IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

WP(C).No. 25499 of 2006(I)

PETITIONER:

ARUMUGHAN, S/O. PARANGODAN,
AGED 50 YEARS, ALIYANGATTIL HOUSE,
VALLAPPUZHA, OTTAPALAM TALUK.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENTS:

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1. THE SUB DIVISIONAL MAGISTRATE,
OTTAPALAM.

2. THE TAHSILDAR, OTTAPALAM.

3. THE VILLAGE OFFICER,
VALLAPPUZHA, OTTAPALAM TALUK.

4. THE SUB INSPECTOR OF POLICE,
SHORANUR.

5. AYYAPPAN, S/O. NARAYANAN,
PAPPANKOTTIL, KARUVATTOOR, VALLAPPUZHA,
OTTAPALAM TALUK.

R1 TO 4 BY GOVT. PLEADDER SRI.K.A. AKBAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 PHOTO COPY OF ORDER DT. 7.5.02 IN MP 7/02 OF THE FIRST RESPONDENT.

EXT.P2 PHOTOCOPY OF THE ORDER IN MP 7/02 DT.19.10.04 PASSED BY THE 1ST RESPAONDENT.

EXT.P3 PHOTOCOPY OF COMMUNICATION DT.16.2.05 SENT BY THE 1ST RESPONDENT TO THE 3RD AND 4TH RESPONDENTS.

EXT.P4 PHOTOCOPY OF THE PETITION FILED BEFORE THE 1ST RESPAONDENT DT.12.12.05.

/TRUE COPY/

R. BASANT, J.

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W.P.C.No. 25499 of 2006 I

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Dated this the 12th day of January, 2007

O R D E R

The petitioner had come to this court complaining about the failure/omission on the part of respondents 1 to 4 to execute an order passed under Section 138 Cr.P.C. in his favour and against the 5th respondent. Respondents 1 to 4 had appeared before this Court in person and they had apprised this court that the order has been implemented. The petitioner had at that stage raised an objection that there was no execution carried out as stated by respondents 1 to 4. Therefore the matter was adjourned for further steps.

2. Today, when the matter came up for hearing, the learned counsel for the petitioner has filed a reply affidavit/objection, wherein it is asserted unmistakably in paragraph 8 that respondents 1 to 4 have by now executed the order to the satisfaction of the petitioner. Of course, he has raised a dispute as to the date on which the order was executed by respondents 1 to 4. He submits that on the last date of posting when respondents 1 to 4 had entered appearance and submitted that the order had been executed, the petitioner had

raised objections and had offered to take out a commission to report to the Court the true state of affairs. Apprehending action at the hands of this court, they had subsequently got the order executed and complied with the direction in full.

3. Be that as it may, I am not entering into the dispute about the date on which the order under Section 138 Cr.P.C. was executed. The fact remains that admittedly execution has been carried out now. This writ petition has, in these circumstances, lost its relevance and significance. It has become unnecessary now.

4. This writ petition is hence dismissed, after making note of the submissions made by the counsel for the petitioner that the order has been complied with.

(R. BASANT)
Judge

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